

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY ANDREW CRANE,

Plaintiff,

Case No. 1:24-cv-371

v.

Honorable Ray Kent

CHAD PALMITER et al.,

Defendants.

/

ORDER DENYING LEAVE TO PROCEED *IN FORMA PAUPERIS* ON APPEAL

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. The Court entered an opinion and order partially dismissing Plaintiff's complaint on June 21, 2024 (ECF Nos. 11 and 12). Plaintiff has filed motions to proceed on appeal *in forma pauperis* (ECF Nos. 38, 42). Because there is no final judgment in this matter from which to file an appeal to the Sixth Circuit Court of Appeals, Plaintiff's motions for leave to appeal *in forma pauperis* are premature. *See Sassower v. Mead Data Cent., Inc.*, Nos. 92-3107, 92-3108, 1992 WL 34403, at *1 (6th Cir. Feb. 24, 1992) (citing *Ambrose v. Welch*, 729 F.2d 1084, 1085 (6th Cir. 1984) (per curiam)). Accordingly, Plaintiff is not eligible to proceed on appeal *in forma pauperis*. 28 U.S.C. § 1915(a)(3).

Plaintiff is informed that within 28 days from the date of this notice he must submit the \$605.00 filing fee or he must file in the United States Court of Appeals for the Sixth Circuit a motion for leave to proceed *in forma pauperis*, a certified copy of a prisoner trust account statement, and an affidavit of indigence. 28 U.S.C. § 1915(a)(2); *McGore v. Wrigglesworth*, 114

F.3d 601, 609 (6th Cir. 1997), *overruled in other part by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013).

Plaintiff is also notified that if he fails to pay the filing fee or to file the required documents as described above, the Court of Appeals may dismiss his appeal for failure to prosecute under Rule 3 of the Federal Rules of Appellate Procedure. *See McGore*, 114 F.3d at 610. In that case, this Court will assess the entire filing fee, which will be payable in full regardless of the previous dismissal. *See id.* In addition, the appeal will not be reinstated even if Plaintiff subsequently pays the filing fee or requests to proceed as a pauper. *See id.*

Accordingly,

IT IS ORDERED that leave to proceed in forma pauperis on appeal is **DENIED** and Plaintiff must seek leave to appeal in forma pauperis in the Sixth Circuit Court of Appeals or pay the filing fee as stated above.

Dated: August 29, 2024

/s/ Ray Kent
Ray Kent
United States Magistrate Judge

SEND REMITTANCES TO:

Clerk, U.S. District Court
399 Federal Bldg.
110 Michigan St., N.W.
Grand Rapids, MI 49503

All checks or other forms of payment shall be payable to “Clerk, U.S. District Court.”